



**REGULAR MEETING**  
**PUBLIC EMPLOYEES' RETIREMENT BOARD**

**April 10, 2008**

The regular meeting was called to order by President Jay Klawon at 8:30 a.m. Thursday, April 10, 2008. Roll call was taken with all members of the Board being present. Board members and staff present were:

Roll Call:

Jay Klawon, President  
John Paull, Vice President  
John Nielsen, Member  
Ray Peck, Member  
Dianna Porter, Member  
Terry Smith, Member  
Roxanne Minnehan, Executive Director  
Melanie Symons, Legal Council  
Scott Miller, Legal Council  
Ursula Hatfield, Executive Assistant

**OPEN MEETING**

Nancy Quirino, Great West Retirement Services; Rick Ryan, Matt Norby, Scott Moore, Jack Tretheway, Ed Cleary, and Doug Neil, members of the Montana State Firemen's Association; Mike O'Connor and Aimee Grmoljez, AMPRE; Tom Schneider, MPEA; Linda Zander and Don Kinman, AFSCME; Tammy Rau, TRS; Kimberly Burdick and Susan Bomstad, APCO; Tom Bilodeau, MEA-MFT; Brand Boyer, BKBH; and Barb Quinn, Fiscal Services Bureau Chief, Kim Flatow, Member Services Bureau Chief, Kathy Samson, DC/Education Services Bureau Chief and Diann Levandowski, Assistant Fiscal Services Bureau Chief, joined the meeting.

**MINUTES OF OPEN MEETING**

The minutes of the open meeting of March 13, 2008 were presented.

Moved: Mr. Terry Smith moved to approve the minutes of the March 13, 2008 PERB Regular Open Meeting.

Seconded: Mr. John Nielsen

Public Comment: No public comment.

Vote: 6/0

## **New Board Member Introduction**

Board President Jay Klawon introduced the new Board Member to the public.

Dianna Porter was Public Policy Director of the Alliance for Retired Americans created in January 2001. Ms. Porter has previously worked as Public Policy Director at the Older Woman's League and Public Policy Director of the National Council on the Aging as well as the editor of the NCOA paper. She has also served on the staff of the US Senate Special Committee on Aging. In 1995-1999, under contract from the US Agency for Current International Development, she served as in-country adviser to the government of Macedonia, where she assisted in the development of a mandatory private pension system, as well as supporting in the transformation of the pensioner association. In 1979-1983 she was Director of Education within the section on Mental Health and Aging, Psychiatry Department at the University of Texas Medical School at Houston, where she guided development and implementation of training program for medical school students, dealing with issues of mental health and the elderly. During that period she was also Managing Editor of Gerontology and Geriatrics Education a National Professional Quarterly. While attending law school in Houston she was director of a foster grandparents program. She is coeditor of a text book "The Introduction to Gerontology and Geriatrics: A Multidisciplinary Approach" and author of numerous reports and issue briefs for the alliance. She has a masters degree in gerontology from the University of North Texas, a post graduate diploma in economic principles and is a lawyer.

**Public Comment on any subject of interest not on the Board agenda:** None given.

## **EXECUTIVE DIRECTOR'S REPORT – Roxanne Minnehan, Executive Director**

### **Board Elections:**

Board policy states that the Board shall elect a President and Vice President in April of each year. The current President is Jay Klawon, John Paull is Vice President. Mr. Klawon asked each member to vote on the Board elections form, remove from their Board packet and pass to Ms. Minnehan, MPERA Executive Director. Ms. Minnehan reviewed the forms. The vote was 5/0 Mr. Jay Klawon President and Mr. John Paull Vice President, Ms. Dianna Porter abstained.

### **Stakeholder's Conceptual Legislation:**

SAVA will be hearing retirement legislation from stakeholders at their April 28-29 meeting. MPERA asked employee groups what they will be proposing to SAVA so that we will be prepared to discuss the Board's position on the proposals.

Ms. Minnehan requested guidance from the PERB, so that a statement can be made to SAVA on each of these items. The Board would like to get an actuary report before making any decisions. Ms. Minnehan suggested that the Board members could remain neutral if they need further information before making a decision. Mr. Scott Miller counseled the Board that they need to first, as PERB members, to do what is best for the fund. Second, the PERB needs to focus only on the funds that are in your systems. No public comment.

#### **Governor's Office – David Ewer**

The Governor's Office provided a proposed draft legislation to delete the trigger eliminating the employer contribution rate increases that went into effect last session. Mr. Ewer stated that under HB 131, should the actuarial assessment of the unfunded liability for the PERS and SRS system be less than 25 years then additional employer contributions will come off. The Governor's Office is contemplating recommending through legislation to remove the trigger. Mr. Ewer cited the volatility of the investment return as a significant factor. SAVA prompted Mr. Ewer to present this to the PERB.

#### **MEA-MFT – Tom Bilodeau**

Mr. Bilodeau is the research director for the MEA-MFT. Mr. Bilodeau stated that his organization doesn't have anything to propose at this time but would like to address the Board. Mr. Bilodeau is stating that MEA-MFT is proposing a couple proposals for TRS. 1) The perennial proposal to address the attraction and retention of people enrolled in TRS, by teachers and administrators of large K-12 school systems. The TRS System has a 25 year any age retirement system, with a 1.67% formula factor. Wages are 25% behind comparable rates in the western states. TRS has members that retire in the state of Montana after their 25 years, then relocate to other states with higher pay rates. The proposal is "the professional retirement option", which will raise the formula for TRS up to 2% per year of service after the member has obtained 30 years of service within the system. 2) Optional retirement plan for the university system. In the early 1990s the state of Montana adopted a voluntary program that allowed the university faculty members to elect rather than enroll into the existing retirement plan. This allowed faculty members to enroll in a defined contribution alternative. Two years after adoption this became mandatory for all new hires. The contributions made by the employer are low, compared to other as other western states; this is as low as 5% of salary. Last legislative session Rep. Allen Olsen carried legislation for the TRS and successfully raised the employer contributions by 1%. This legislation session they will be looking to raise another 1% to make this 7% of employer contributions. This will make Montana university retirement comparable to other western states.

#### **AMPRE – Aimee Grmoljez**

Ms. Grmoljez is presenting for Leo Berry. AMPRE is proposing a trigger to increase/decrease the GABA based on the PERS amortization period. In the 2007 legislation AMPRE proposed a trigger analysis and will be proposing this again for 2009 legislation. Increase the GABA back to 3% but only if the unfunded liability is projected to stay below 25 years, well within the range of being actuarially sound. If the actuary determines it is above 30, then the GABA will go back to 1.5%, for new hires only. This will allow a year by year evaluation that the fund is sound and provide

new hires a 3% or 1.5% GABA. AMPRE is requesting from the PERB is the actuary analysis report. Ms. Grmoljez stated, the PERB supported this during the last legislative session.

#### **MPPA – Jerry Williams**

MPPA is requesting to 1) modify the definition of compensation. Current definition does not include holiday, overtime, or shift differential. At this time MPPA does not know the cost of this, so they are unable to determine a funding source. MPERA is working with the police and obtaining data from employers to collect data to determine the impact of including all compensation. 2) Eliminate the employee contributions for Deferred Retirement Option Plan (DROP). MPPA is proposing to eliminate the contribution rate of the employee that enters DROP. Mr. Williams states that once the member enters DROP there is not a benefit, but the employee continues to pay into the system.

Ms. Minnehan stated that modifying the compensation definition will be a large cost to the system because contributions haven't been paid on these compensations over the members' career. This will help with cost of the actuary study. Discussion included whether MPPA is willing to phase this in or to apply to new hires only. Mr. Williams stated that this proposal is for current employees, but the phase in has been considered. Mr. Williams stated that they are willing to help with actuarial costs for the second proposal.

#### **MT State Firemen's Association (MSFA) – Doug Neil**

Mr. Neil is citing eight concepts on behalf of the firefighters' association. 1) One time legislation to allow five members of FURS to opt in to GABA, they pay the cost to be made whole. Mr. Neil stated the PERB has previously endorsed this. The proposal was for the members to pay the actual cost plus 8% interest. Counsel has informed the PERB that this could have qualification issues. This is not part of the technical corrections bill. The issue is multiple irrevocable elections to receive benefits in different ways. The more opportunities given the harder it is for the IRS to determine that the plan is sound. The issue with these members is they were given the opportunity and they opted not to take the GABA; therefore, they are not able to be given a second election due to qualification issues.

2) The firefighters would like to add Partial Lump-sum Option Plan (PLOP) system to FURS. They are currently gathering information to be better educated on this subject.

3) An addition of a "presumptive disease" law to MCA for Firefighters. In the event of heart, lung, cancer, occupational or infectious disease it would be presumptive as job related. This will not be presented at this time.

4) Allow additional firefighters into FURS, MCA 19-13-210. This doesn't include the Montana Air National Guard (MANG) Firefighters. The bill passed last legislation allowing Missoula Rural, Lockwood Fire and like departments into the FURS system. After five legislation sessions this was past. By changing this statute Mr. Neil wouldn't have to bring a proposal to each legislative session.

5) Overtime and other benefits to be included in the definition of compensation. This has been proposed before. The approach this session will be to talk to the employers and have a delayed effective date so the cities can add this to their budgets. This proposal has the same issues as the MPPA proposal. The members have not paid contributions on the proposed new definition over their career. This could cause a spike in highest average compensation and could cause major financial hardship on cities. They are willing to phase-in but this is being proposed for current

members not for new hires only. Mr. Matt Norby pointed out that firefighters do not work on a forty hour work week. They have to work another 13 hours in order to qualify for overtime.

6) Line of Duty Death (L.O.D.D.) benefit for Public Safety Officers killed in the line of duty. This will not be presented to SAVA at this time. They will be working with the Governor's Office, MPPA and the volunteers.

7) Increasing 2.5% for year of service, to 3%. A funding source has not been determined.

8) Retired firefighter return to work, in second class cities. This is not an issue and will be withdrawn.

State Firefighter Convention will be July 8-11, 2008 in Great Falls.

### **Other Interested Parties**

Time was allotted on the agenda for other interested parties to address the Board.

### **Highway Patrol Retirement System – Aimee Grmoljez**

The Montana Troopers Association meets twice a year in May and October. They will finalize in October what they want to bring to the 2009 legislative session. Last session they proposed to have association withheld from retirees benefit checks. This may be proposed again this session.

### **Association of Public-safety Communications Officials (APCO) – Susan Bomstad and Kimberly Burdick**

APCO is proposing a 20 year retirement for Public Safety Telecommunicators. APCO is proposing this as a way to attract and retain dispatchers. Dispatchers are currently under PERS 30 year retirement system. Due to the stressfulness and demanding nature of the job they can not reasonably expect to stay in the job long enough to retire. APCO has the support of the Montana Sheriffs and Peace Officers Association (MSPOA) and the American Federation of State, County and Municipal Employees (AFSCME). The question was asked about other states. Ms. Bomstad named other states that have their dispatchers under Sheriff's Retirement System (SRS) - Texas, Wyoming, Oregon, Alaska were some examples. Sen. Carolyn Squires has offered to carry the bill. Kathy McGowan has offered to assistance.

### **PERB Conceptual Legislation – Roxanne Minnehan**

Agency proposed conceptual legislation must be submitted to the budget office by Monday, April 14, 2008, these can be withdrawn at a later date. MPERA is bringing five proposals to the Board.

1) Federal Qualifications Bill – this proposed bill would address statutory changes required to ensure the retirement plans meet IRS qualifications.

2) Increase Defined Benefit (DB) Administrative Expense Cap – Currently MPERA has a cap on DB administrative expenses equal to 1.5% of DB benefits paid. In recent years MPERA is coming increasingly closer to the cap. We are proposing increasing the cap to 1.75% to ensure we can increase services, provide quality services and move forward with technological advancements and projects..

- 3) Require Working Retiree Employer Contributions – The baby boomers are starting to retire and leaving the workforce, creating a void of talent and experience. Many employers are hiring these experienced workers back. This puts stress on the retirement system. For every position that the employer does not fill with a contributing employee, the retirement system loses those contributions. MPERA is proposing receiving employer contributions on working retirees. Question was asked if contributions are paid on temporary employees. Contributions are not paid until after the employee has worked over 960 hours. Before that time, they have the option to elect PERS. Last session statute was passed that retirees returning to work in the same retirement system, through a temporary agency are classified a working retirees.
- 4) General Revisions Bill – Every session MPERA propose a bill to clean-up statue language that is identified during our daily work.
- 5) Allow Indian Tribes to contract for retirement coverage – MPERA has received interest from the Blackfeet Tribal Police to participate in a retirement plan. This would require a statutory change. ICE Miller suggested that it is possible but cautioned to be careful that they are only doing governmental work; otherwise, this could lead to a qualification issue.

The Board tabled a decision on all legislative proposals pending a joint Board/Legislation Teleconference on Monday April 14, 2008.

#### **EIAC Recommendations – Kathy Samson**

January 10, 2008, the Board approved EIAC recommendations to terminate the SSgA International Growth Opportunities Fund and the Hotchkis and Wylie Small Cap Fund and conduct searches for replacement investment options.

The Employee Investment Advisory Council (EIAC) met on Friday, March 28, 2008. At the meeting they chose investment options to recommend to the Board to replace the terminated options.

#### Recommendation for the 401(a) Defined Contribution Retirement Plan Small Cap Value Fund.

EIAC recommends replacing the Hotchkis and Wylie Small Cap Value fund with the Target Small Capitalization Value fund. EIAC states this fund provides additional ability for participant diversification, the other small cap options are growth and core. The fund has consistently good returns above the benchmark, and best of the top four replacement candidates.

#### Recommendation for the 401(a) Defined Contribution Retirement Plan EIAC International Equity Fund.

EIAC recommends replacing the SSgA International Growth Opportunities fund with the Principal Inv International Growth fund. This fund will provide additional ability for participant diversification; the other international option is a value fund. It is also the best rolling “information ratio” of the top four candidates, “informational ratio” is generally the combination of consistent excess returns and low tracking error.

Motion: Mr. John Nielsen moved to accept and approve the EIAC recommendations for investment changes within the 401(a) Defined Contribution Retirement Plan.

Second: Ms. Dianna Porter

Vote: 6/0

Recommendation for the 457 Deferred Compensation Plan Mid Cap Value Fund.

Replace the Hotchkis and Wylie Mid Cap Value fund with the Columbia Mid Cap Value fund. This recommendation had significant discussion prior to EIAC motion and vote. The Janus Mid Cap Value fund was one of the four replacement candidates. The Janus Mid Cap Value fund is investment option offered in the 401(a). The Columbia Mid Cap Value is currently, overall, a better fund than the Janus Mid Cap. There is a responsibility to offer and provide the best possible replacement fund based upon the current information and knowledge. The 457 Plan participants should not be given the “second-place horse” just because it is already in the race. Mr. Smith attended the EIAC meeting via phone, and lobbied for the Janus Mid Cap fund.

Motion: Mr. John Paull moved to accept and approve the EIAC recommendations for investment option changes within the 457 Plan.

Second: Mr. Ray Peck

Vote: 5/1 with Mr. Terry Smith voting nay.

**Medical Consultant Contract Modification – Scott Miller**

At the March PERB meeting the Board approved the contract for medical consultant services with Dr. Mitgang. Dr. Mitgang requested a modification to include compensation for his time to prepare and give testimony. Mr. Miller stated that we would be compensating Dr. Mitgang for these services as well; however, Dr. Mitgang felt it should be reflected on the contract.

Motion: Mr. Terry Smith moved to uphold staff recommendation to approve the agreement with Dr. Mitgang.

Second: Mr. John Nielsen

Vote: 6/0

**PERS Contract – Wise River School District #11**

Wise River School District #11 has requested PERS coverage.

Motion: Ms. Dianna Porter moved to approve the contract for PERS coverage between the Wise River School District #11 and the Public Employees’ Retirement Board.

Second: Mr. John Paull

Vote: 6/0

**Informal Consideration – VFCA, Request for Acceptance of Late Annual Certificates, Coram-West Glacier VFD – Diann Levandowski**

Coram-West Glacier Volunteer Fire Department is requesting the Board accept the late filing of the FY 2006 Annual Certificate. The Fire Chief states that the form was sent in; however, MPERA has no record of the certificate being filed. Coram-West has been late two other times in the last 10 years. The Annual Certificates are due by September 1 of each year following fiscal year end. The Annual Certificates certify that the members listed were members for the entire fiscal year period (July 1 – June 30) and received a minimum of 30 hours of instruction during that fiscal year. The Board may accept late annual certificates if the support documentation accompanies the request.

Motion: Mr. John Paull moved to uphold staff recommendation that Coram-West Glacier Volunteer Fire Department be granted service credit for FY 2006-2006 for the 11 members who were listed on the late filed Annual Certificate.

Second: Mr. John Nielsen

Vote: 6/0

#### **FY 2009 Interest Rate Credited – DB Member Accounts - Barbara Quinn**

The Board sets the interest rate credited to member accounts each fiscal year based on the short-term interest rate trends. Interest rates are changed once a year, if the member withdraws their benefits; they withdraw their contributions plus interest. The current interest rate is 4.5%. Staff is recommending a decrease to 2% taking into account the recent decrease in short-term interest rates. Staff also proposed a 3% interest rate in strict adherence to Board policy of looking at the rates for the last calendar year. The Board discussed changing the interest rate to 3% rather than 2%. Original motion from Mr. Terry Smith to change the interest rate to 3% dies due to lack of second. Motion made by Mr. Ray Peck to change the interest rate to 2% dies due to lack of second. After much discussion the Board determined that an interest rate of 2% is too low-current market rates are unusual.

Motion: Mr. Terry Smith moved to set the interest rate credited to defined benefit retirement system's member accounts to 3.00%, effective July 1, 2008.

Second: Mr. John Nielsen

Vote: 5/1, Mr. Ray Peck voted nay.

#### **Out-of-State Travel Auth. – National Association of State Retirement Administrator's (NASRA) – Roxanne Minnehan**

The Board approves all out of state travel. The National Association of State Retirement Administrator's (NASRA) Annual Conference will be in Snowbird, Utah, August 1-6.

Motion: Ms. Dianna Porter moved to approve Roxanne Minnehan, MPERA Executive Director, be allowed to attend the 2008 annual conference of the National Association of State Retirement Administrators in Snowbird, Utah, August 1-6, 2008.



Second: Mr. John Paull

Vote: 6/0

**Board Education – Travel Expense Vouchers – Barbara Quinn**

Ms. Quinn presented this month's educational session. The education topic addresses the Travel Expense Voucher form, how to complete the form and the common issues that arise.

Appointed members of boards, are subject to the regulations contained in Title 2, Chapter 18, Part 5 – Travel, Meals and Lodging of the Montana Code Annotated (MCA). Each agency shall hold to the absolute minimum the number of personnel attending a function requiring travel. Lodging expenses and transportation costs should be kept as low as possible. Each expense of \$25.00 or more must be supported by a receipt. Meal tips and meal taxes are not considered miscellaneous expenses. You must use a travel expense voucher or similar travel claim form authorized by your agency to itemize your allowable expenses. The immediate supervisor or the supervisor having the most direct knowledge of the travel-related activities must approve the employee's travel expense voucher. Exception to the rule are, their designated approving authority, must approve claims for board members. Agencies are required to use the State's purchasing card to purchase all airline tickets for employee travel unless it can be documented that another payment method is in the state's best interest. Reimbursement for miles traveled in a personal car must be actual map miles from point A to point B and back. Appointed members of a state board are entitled to a midday meal on the day of a meeting, regardless of proximity of the meeting to headquarters or their home. You may not request reimbursement for meals included in the cost of a conference registration that is paid by your agency or for meals provided by the State or another government entity. In order to claim an allowance for a meal, you must be in a travel status for more than three continuous hours. You receive reimbursement for your actual out-of-pocket lodging expenses including room tax, up to the maximum amounts set by Section 2-18-501, MCA, for in-state and out-of-state travel. In order to claim lodging reimbursement, you must attach the original receipt for a licensed lodging facility to your agency's travel claim form or the travel expense voucher. If you are traveling with your non-state-employee spouse, the lodging rate claimed must reflect only the rate for one person. To save costs, always ask for the lowest available rate for which you qualify.

**Administrative Rule Rewrite – Melanie Symons, Kim Flatow**

The administrative rules are part of the package for the IRS review for our qualification status. Ms. Flatow and Ms. Symons have reviewed each defined benefit rule and made proposed changes. Ms. Symons and Ms. Samson have identified defined contribution rules that need to be amended or changed. The changes are then being reviewed by the entire management team. As the management team reviews the rules, they have been presenting them to the Board. This is the third and final installment for Board review. Ms. Symons will then be writing the statements of reasonable necessity and ensuring the appropriate statutes are cited for authority and implementation. The complete package will be presented to the Board for approval at its May meeting.

**Use of DCRP Administrative Account to Reduce PCR-UAL – Scott Miller**

Mr. Miller addressed a question by PERB member Mr. Terry Smith regarding the use of the administrative account and forfeitures to pay down the Plan Choice Rate Unfunded Actuarial Liability (PCR-UAL). Mr. Miller addressed the Board; MPERA staff does not believe current

statutory language provides the authority to use the DCRP forfeitures to reduce the PCR-UAL. The original version of section 19-3-2117 allowed forfeitures to be used in a way that would reduce the UAL. ICE Miller advised a change to the original statute due to qualification issues. The qualification concern about how DCRP is currently structured is that the PCR is not fixed – it can change up or down depending on the amortization period of the DCRP UAL. A PCR change would affect the employer contribution that goes into a member's account. The IRS discourages such a change, and the frequency with which such a change may occur has a potential impact on a plan's qualification. As of today, statute 19-3-2117(3), MCA states forfeitures are to be used to meet the plan's administrative expenses, including startup expenses. Mr. Miller stated that UAL is not defined as a startup expense. The UAL is defined as the excess of actuarial accrued liability over actuarial value of the pension fund assets; it is a liability or debt not an expense. Mr. Smith feels the statute 19-3-2117(3), MCA does allow forfeitures to be used in this manner. Mr. Smith stated that the UAL is a startup expense. Startup expenses originally included consultants and actuaries hired, cost the new plan had to pay the old plan to come into existence. Unfortunately, after the DCRP went live the UAL was larger than originally calculated. Mr. Smith argued that the forfeitures appropriately allocated to pay off the UAL are still available. Mr. Klawon brought up that the original bill stated that a member could be vested in one year and the Board fought this and it was changed to five years. If we pay off the UAL, this would increase the members' accounts. This would go against statute; 19-3-2117(3), MCA states that a member's retirement account can not be increased as a result of forfeitures.

#### **Verbal Update – P & I Custom Date Strategies Summit Conference Report – Kathy Samson**

Ms. Samson attended the Pension and Investment Custom Date Strategies Summit Conference in San Francisco March 31 – April 2, 2008. This was a one day summit, focused on target date funds. Target date funds are a pre-established asset allocation, based upon the member's age and number of years until retirement. The funds move along a "glide path", the allocation will change as the member moves closer to retirement. Custom target date funds are a second generation of target date funds. The first generation was a static fund; these are only based upon the number of years until retirement. The second generation funds are custom funds that provide better and different options for the member. 1) They can be based on the member's plans demographics. They are still based on age and years until retirement, but include rate in some of the member's unique plan demographics. 2) Custom target rate funds allow a combination of underlying investment options, passive and actively managed funds. Custom funds allow the use of investment options already being used in the plan that are approved by the Board. These funds will allow the Board to move in the direction that is best for the members. At a May 19, 2008, EIAC meeting; our consultant will present target date funds and the consultant's manage account product. Great West will have an individual at the meeting. The Pension Protection Act (PPA) requires for Erisa covered plans defined contribution plans to have QDIA or qualified default investment alternatives. PERB is not an Erisa covered plan, but we try to follow Erisa standards. Under the Department of Labor regulations issued in October, QDIA has been given a hierarchy of four; only three will be all applicable to us. Static asset allocation fund will not meet the QDIA. Plans that meet QDIA are provided with "safe harbor relief"; this would prevent any litigation issues in the future.

#### **Verbal Update – MPERA Staffing – Roxanne Minnehan**

DC Accountant was filled with an in-house applicant, Veena Kasarla. Start date, Monday April 14, 2008.

DB Accounting Clerk is now open. This was vacated, when the DC Accountant position was filled.

Education Specialist has been classified. The goal is to have this posted by the end of this week.

Administrative Support, Member Services is a new position and a job profile has yet to be finalized.

Paralegal has been out on FMLA and does not have a return to work date. This is informational to the Board to explain that items will be slower, but members of staff are helping with this vacancy.

Board members One position has been filled. Dianna Porter was introduced earlier in the meeting.

### **Verbal Update – Board of Investments (BOI) – John Paull**

Mr. Clifford Sheets gave Mr. Paull some information on Wednesday, March 26, 2008. The Pension Portfolios are down -4.59% FY to date. Montana Domestic Equity Pool was down 10.9%, International Pool was down 9.1%, Private Equity Pool was up 3.9%, Real Estate Pool was up 4.51%, Total Pension FY to date was -4.59%. The Board of Investments selected a new Fixed Income Portfolio Manager, Wednesday April 9, 2008. Mr. Nathan Sax will start May, 2008. He worked with Legg Mason, in Baltimore, MD. The Human Resource Committee will meet next week to decide on his salary. The Fixed Income Managers, RFP had 89 responses. They will be evaluated by BOI staff and RV Kuhns. The next BOI meeting is in May, after the next PERB meeting.

### **Verbal Update – Litigation – Melanie Symons, Scott Miller**

Mr. Miller updated on the MPPA case. The court converted our motion to dismiss into a motion to summary judgment. Then invited the parties to submit additional information within ten days. Opposing counsel and Mr. Miller exchanged the items they were submitting, which started a three day period to respond to the other party's submission. Thursday, April 10, 2008 marked day three. MPPA is submitting an affidavit from their actuary stating they need this information to do an evaluation of the system. The court granted the motion for leave to file supplemental brief filed by Mr. Miller to allow the additional information to his argument.

Ms. Symons briefed the Board in the retired highway patrol officer that would like a third opportunity to participate in GABA. This is still in front of Judge Sherlock.

### **Informal Consideration – PERS, Highly Compensated Employee, MG**

Mr. Brand Boyar is attorney for the City of Bozeman and wishes to attend the consideration of MG's appeal. MG has chosen not to be present at the PERB April 10, 2008 meeting. Ms. Symons argued that MG signed a release for records, but the release does not allow for Mr. Boyar to be present during the closed portion of MG's case. Had MG been present, he could have verbally waived his right to privacy. Mr. Miller counseled the Board to honor the signed

release as records only. Mr. Boyar stated that the City of Bozeman has made contributions to the plan on MGs behalf. Upon the decision of the Board there will be a credit to the City of Bozeman, the amount will be determined after the motion.

Motion: Mr. Terry Smith moved to exclude anyone but MG and MPERA staff.

Second: Mr. John Paull

Vote: 6/0

**Next SAVA Meeting**

April 28-29, 2008

**Next Board Meetings**

April 14, 2008

May 8, 2008

June 12, 2008

**The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting will be closed.**

**CLOSED MEETING**



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**PUBLIC EMPLOYEES' RETIREMENT BOARD**

**April 10, 2008**

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Jay Klawon, President  
John Paull, Vice President  
John Nielsen, Member  
Ray Peck, Member  
Dianna Porter, Member  
Terry Smith, Member  
Roxanne Minnehan, Executive Director  
Melanie Symons, Legal Counsel  
Scott Miller, Legal Counsel  
Kim Flatow, Member Service Bureau Chief  
Ursula Hatfield, Executive Assistant

**MINUTES OF CLOSED MEETING**

The minutes of the regular closed meeting of March 13, 2008 were presented.

Motion: Mr. John Paull moved to approve the minutes of the March 13, 2008 PERB Regular Closed Meeting with corrections.

Second: Mr. John Nielsen

Vote: 6/0

**Contested Cases**

**Informal Consideration – PERS, Unreported Service, MT – Kim Flatow**

Mr. Jay Klawon recused himself of any involvement in this issue. Mr. John Paull chaired in his absence. Ms. Flatow presented the case of MT. MT was a police officer, initially hired in July 1977, under a federal program called the Concentrated Employment Training Act (CETA). Under the provisions of CETA, employees were not required to be members of a retirement plan. Once they were no longer CETA employees, they were subject to the retirement provisions like any other employee. MT provided information in May 2007, showing that his status changed from a

CETA employee in July 1978. The employer did not report him to the Public Employees' Retirement System (PERS) until February 1980. The employer provided MT a copy of an annual membership statement in 1986, proof of the missing service. MPERA did not receive any information that there had been a reporting error until May 2007. Under BOARD Admin 04 Section III A 1, the employer is responsible to submit all required reports and necessary contributions. Also noted in 19-2-502(2), MCA "The Board may collect payments delinquent under subsection (1) with an interest penalty at the rate of 9% a year or \$10.00 a day, whichever is greater." Mr. Miller informed the Board that a minimum 8% is required to keep the fund actuarially sound.

Motion: Mr. Terry Smith moved to uphold staff recommendation for the complete interest rate of 8% for the MT bill with annual payments for 10 years for the employer.

Second: Mr. John Paull

Vote: 5/0, Mr. Jay Klawon abstained

**Informal Consideration – PERS, Highly Compensated Employee, MG – Melanie Symons**

MG is appealing staff's determination reducing his PERS retirement benefit, contending in general that no reduction should occur and specifically that staff's proposed reduction is greater than that required by the IRS's compliance statement. Ms. Symons suggested using MG's absence as a default and move on to the second step of informal reconsideration. On December 14, 2007, the Internal Revenue Service (IRS) issued a Voluntary Correction Program (VCP) Compliance Statement regarding MPERA's consideration of 125 Plan health insurance premiums as compensation for retirement system purposes. The Board adopted the Compliance Statement at its January 10, 2008, meeting. MPERA staff has deducted the health insurance premiums from MG's highest average compensation (HAC) and recalculated MG's original benefit based on corrections. Staff has determined the amount overpaid employee and employer contributions attributable to all 125 plan premiums improperly considered to be compensation to MG. MG is also requesting a one-time opportunity to change his original election due to a recalculation of his retirement benefit. MG is currently under option 3. Our plan document allows an option change only if the member's contingent annuitant dies or through divorce. MG's contingent annuitant is his daughter.

Motion: Mr. Jay Klawon moved that the Board waive the informal consideration process and go consider this "appeal" to be the informal reconsideration for MG permitted by rule.

Second: Mr. Ray Peck

Vote: 3/3 motion fails with Mr. Terry Smith, Ms. Dianna Porter and Mr. John Nielsen voting nay.

Motion: Mr. Terry Smith moved to uphold staff's amended correction of MG's retirement benefit be with interest based on the DB interest rate at the time the employee contributions were made.

Second: Mr. John Paull

Vote: 6/0

Motion: Mr. Terry Smith moved to deny MG's request to change his retirement option.

Second: Mr. John Nielsen

Vote: 6/0

### **Retirement Report**

- Disability Claims/Reviews: Katie Linjatie
  - DC is 53 years old. DC has 27 years, eight months with PERS. DC was diagnosed with post childhood bacterial meningitis; partial onset epilepsy, currently under reasonable control; headache; cognitive disorder; and paranoid personality disorder. Prognosis is fair. Dr. Mitgang reviewed each physical diagnosis. Dr. Mitgang noted that DC's diagnoses do not hinder his ability to work and are correctible or treatable. Ms. Linjatie noted that DC plans to complete his thirty years of service and retire as a regular employee. Ms. Linjatie is recommending the Board deny disability benefits.

Motion: Mr. John Paull moved to deny request for disability benefits for DC.

Second: Mr. Terry Smith

Vote: 6/0

- Finalized Service Retirements Disability Benefit Payments Kim Flatow

Motion: Mr. John Nielsen moved to approve the Finalized Service Retirement/Disability Benefit Payments with addendum.

Second: Mr. Terry Smith

Vote: 6/0

### **Contested Case/Litigation Updates** – Melanie Symons, Scott Miller

No more information was given during closed session.

### **Reconvene Open Meeting**

### **Action on Closed Meeting Issues**

#### **Informal Consideration – PERS, Unreported Service, MT**

Motion: Mr. Terry Smith moved to uphold staff recommendation for the complete interest rate of 8% for the MT bill with annual payments for 10 years for the employer.

Second: Mr. John Paull

Vote: 5/0 one abstained

#### **Informal Consideration – PERS, Highly Compensated Employee, MG**

Motion: Mr. Jay Klawon moved that the Board waive the informal consideration process and go consider this “appeal” to be the informal reconsideration for MG permitted by rule.

Second: Mr. Ray Peck

Vote: 3/3 motion fails with Mr. Terry Smith, Ms. Dianna Porter and Mr. John Nielsen voting nay.

Motion: Mr. Terry Smith moved to uphold staff’s amended interest credited to MG based on the DB interest rate at the time the employee contributions were made.

Second: Mr. John Paull

Vote: 6/0

Motion: Mr. Terry Smith moved to deny MG’s request to change his retirement option.

Second: Mr. John Nielsen

Vote: 6/0

#### **Finalized Service Retirements Disability Benefit Payments Kim Flatow**

Motion: Mr. John Nielsen moved to approve the Finalized Service Retirement/Disability Benefit Payments with addendum.

Second: Mr. Terry Smith

Vote: 6/0

### **ADJOURNMENT**

There being no further business before the Board, Mr. Terry Smith moved to adjourn the meeting, Mr. John Paull seconded. All voted aye, next regular meeting will be May 8, 2008.



Meeting closed at approximately 3:30.